

March 20, 2013

**VIA ECFS**

***EX PARTE***

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW, Room TW-A325  
Washington, DC 20554

**Re:   *Petition of CenturyLink for Forbearance Pursuant to 47 U.S.C. § 160(c) from  
Dominant Carrier and Certain Computer Inquiry Requirements on Enterprise  
Broadband Services, WC Dkt. No. 12-60***

Dear Ms. Dortch:

On March 18, 2013, on behalf of tw telecom inc., I discussed the Commission's review of the pending CenturyLink petition for forbearance from dominant carrier regulation of certain non-TDM special access services with Jenny Prime of the Wireline Competition Bureau.

During the discussion, I stated that CenturyLink has not come close to meeting its burden of proving that dominant carrier regulation is no longer necessary to ensure just and reasonable rates for non-TDM special access services or to protect customers of those services. *See* 47 U.S.C. § 160(a)(1)-(2). Nor has CenturyLink shown that forbearance would be consistent with the public interest. *See id.* § 160(a)(3).

I further stated that the Wireline Competition Bureau's recent initiative to do CenturyLink's work for it by gathering market data<sup>1</sup> is unnecessary because CenturyLink's failure to make a serious attempt to provide a market analysis that would justify forbearance is by itself sufficient grounds to deny the petition. Indeed, if CenturyLink had really thought it could prove that forbearance is appropriate, it would have already submitted the information (as well as other information) that the Bureau has now requested.

In addition, I stated that competitors may not be able to provide a significant amount of information in response to the data request because most competitive carriers do not operate in the legacy CenturyTel and legacy Embarq regions (although some do operate in Las Vegas). In addition, the negotiations for and contracts governing the wholesale purchase of non-TDM special access services are usually subject to non-disclosure agreements.

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<sup>1</sup> *See* Letter from Julie A. Veach, Chief, Wireline Competition Bureau to Craig J. Brown, Associate General Counsel, CenturyLink, Inc., WC Docket No. 12-60 (March 5, 2013); Public Notice, *Competition Data Requested in CenturyLink Forbearance Petition*, DA 13-363 (March 5, 2013).

Finally, I stated that it is too late in the proceeding to initiate a data gathering process because interested parties will not have sufficient time to analyze and comment on the information submitted in response to the data requests. Nor will interested parties have a meaningful opportunity to analyze and comment on the Commission's own assessment of the data, which should be made available for comment. All of this could and should have been done far earlier in the proceeding, when prejudicial time constraints did not exist.

Respectfully submitted,

/s/ Thomas Jones

*Attorney for tw telecom inc.*

cc: Jenny Prime